



REMARKS

Claims 1-36 are pending, of which Claims 1, 7, 13, 14, 16, 20, 24-26, 31 and 36 have been amended. This Application has been carefully considered in connection with the Examiner's action. Reconsideration and allowance is respectfully requested in light of the foregoing amendments and the following remarks.

Claim 16 has been voluntarily amended to rectify an apparent typographical error. Claim 24 stands objected to because of informality in numbering. In response, Claim 24 has been amended to correct this informality. Each of such amendments is made solely for purposes of clarification, but does not, and is not intended to, narrow or limit the claimed invention in any way.

Claims 1-36 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Before discussing this rejection on the merits, the Manual of Patent Examining Procedure (MPEP) states in pertinent part:

Office personnel have the burden to establish a *prima facie* case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a useful result. Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 U.S.C. § 101. ... Further, when such a rejection is made, Office personnel must expressly state how the language of the claims has been interpreted to support the rejection." MPEP § 2106, page 2100-7.

In responding to this rejection, therefore, Applicants respectfully submit that no *prima facie* case has been established to support this rejection. Although general statements were made at page 2 of the Office Action that abstract ideas that do not apply, involve, use, or advance the technological arts are non-statutory subject matter, it is not clear how Applicants' invention falls into the category of such abstract ideas. The only basis for this rejection is found at the top of page 3 of the Office Action: "In the present case, the claims do not recite that the forecasted contact staffing requirement system must be implemented in a computer." It is, however, not entirely clear how implementing Applicants' invention in a computer is a criterion to determine whether or not Applicants' invention is statutory subject matter under 35 U.S.C. § 101.

Although the basis for this rejection is not clearly stated in the Office Action, Applicants respond to this rejection based on the telephone interview with the Examiner on May 6, 2003. Applicants note with appreciation the Examiner's guidance during the telephone interview. Specifically, the Examiner indicated in the interview that the rejection of Claims 1-36 under 35 U.S.C. § 101 as being directed to non-statutory subject matter may be withdrawn, if all pending independent claims are amended to have a limitation of one or more processing devices.

In response to this rejection, therefore, independent Claims 1, 7, 13, 14, 20, 25, 26, 31 and 36 have been amended to particularly recite the limitation of one or more processing devices. Support for these amendments is found in the Application, for example, at page 3, lines 27-32 and page 4, lines 20-26. It is therefore submitted that independent Claims 1, 7, 13, 14, 20, 25, 26, 31, and 36, as amended, are directed to statutory subject matter. Accordingly, it is respectfully requested that the rejection of Claims 1, 7, 13, 14, 20, 25, 26, 31, and 36 under 35 U.S.C. § 101 as being directed to non-statutory subject matter be withdrawn.

Claims 2-6, 8-12, 15-19, 21-24, 27-30, and 32-35 depend from and further limit independent Claims 1, 7, 13, 14, 20, 25, 26, 31, and 36 in a patentable sense, and, for this reason and the reasons set forth above, are also deemed to be directed to statutory subject matter. Accordingly, it is respectfully requested that the rejection of dependent Claims 2-6, 8-12, 15-19, 21-24, 27-30, and 32-35 under 35 U.S.C. § 101 as being directed to non-statutory subject matter be withdrawn, as well.

Claims 1-36 stand rejected under 35 U.S.C. § 103 as being unpatentable over a list of "Blue Pumpkin" press releases (hereinafter collectively referred to as "Blue Pumpkin"), in view of the personal knowledge of the Examiner. The Blue Pumpkin disclosure relied upon includes the following press releases: (1) "Blue Pumpkin Software and Siemens Announce Partnership for Largest Call Centre Market in Continental Europe," February 24, 2000; (2) "Nortel Networks, Blue Pumpkin to Offer Advanced Solutions for Second Wave of e-Business," April 11, 2000; and (3) "Witness System Partners with Blue Pumpkin to Offer Contact Center Solutions for Scheduling, Recording and Performance Analysis," April 28, 2000. This rejection is respectfully

traversed. In response, Applicants respectfully submit that Claims 1-36 clearly distinguish and are patentable over the cited references.

Specifically, independent Claims 1, 7, 14, 20, 26, and 31 particularly recite one of the distinguishing characteristics of the present invention, namely, that forecasted contacts received are propagated in proportion to a propagation value assigned to each of a predetermined number of periods.

Blue Pumpkin was cited as fully disclosing Applicants' invention as claimed in the independent Claims 1, 7, 14, 20, 26, and 31, except merely for the teaching of propagating the forecasted contacts received in proportion to a propagation value assigned to each of a predetermined number of periods, for which the personal knowledge of the Examiner is relied upon. Blue Pumpkin, however, also fails to either teach or suggest the first limitation of forecasting or calculating the staffing requirement necessary to handle the *propagated* forecasted contacts received, as is recited in Applicants' independent Claims 1, 7, 14, 20, 26, and 31. (Emphasis added.) Specifically, the portions of Blue Pumpkin cited as disclosing the first limitation (i.e., page 4, paragraphs 2-5 and page 12, paragraphs 3-5 of Blue Pumpkin) fail to either teach or suggest propagating forecasted contacts received. Therefore, Blue Pumpkin fails to either teach or suggest the first limitation.

Furthermore, Blue Pumpkin fails to either teach or suggest the second limitation (i.e., the aforementioned distinguishing characteristic) of propagating the forecasted contacts received in proportion to a propagation value assigned to each of a predetermined number of periods. This is not disputed. What is disputed is whether "it is old and well known in the art to propagate the forecasted contacts in proportion to a propagation value for a certain length of time," as is shown in the Office Action, at the bottom of page 3, for example. The apparent reasoning behind this assertion is that this second limitation is how forecasts are created. The second limitation, however, is distinguishable because the act of propagation is performed on "forecasted contacts received." It is not clear how this reasoning renders the second limitation "old and well known in the art." Accordingly, the second limitation is not met by the personal knowledge of the Examiner cited. Moreover, Applicants respectfully request presentation of proof that the second limitation is found in the prior art.

Additionally, independent Claims 13, 25, and 36 respectively recite detailed steps, means, and computer program code for calculating the total, non-immediate, multimedia contacts in a period within a range.

The Office Action clearly states that Blue Pumpkin does not either teach or suggest any of the detailed steps, means, and/or computer program code. Still, it is asserted in the Office Action at page 6, for example, that:

However, all of these steps mentioned above are necessary to determine the staffing requirements of the various types of contacts. It is old and well known in the art of call centers to propagate past and current period values to forecast future contact values. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to determine a forecasted value for contacts using propagation as it allows Blue Pumpkin to accurately predict the number of forecasts received.

From this reasoning, it is not entirely clear how all of the detailed steps in independent Claims 13, 25, and 36 are obvious to one of ordinary skill in the art. In this regard, Applicants respectfully request presentation of proof that the detailed steps are necessary. In fact, it is not even asserted in the Office Action that the detailed steps are obvious. Accordingly, Applicants contend that the detailed steps recited in independent Claims 13, 25, and 36 are indeed not obvious to one of ordinary skill in the art at the time of the invention. Furthermore, no prior art is cited to support the contention that it is old and well known in the art of the call centers to propagate past and current period values to forecast future contact values. Applicants respectfully request presentation of proof that the second limitation is found in the prior art.

In view of the foregoing, it is apparent that none of the cited references, either singularly or in any combination, teach, suggest, or render obvious the unique combination now recited in independent Claims 1, 7, 13, 14, 20, 25, 26, 31, and 36. It is therefore submitted that Claims 1, 7, 13, 14, 20, 25, 26, 31, and 36 clearly and precisely distinguish over the cited combinations of references in a patentable sense, and are therefore allowable over those references and the remaining references of record. Accordingly, it is respectfully requested that the rejection of Claims 1, 7, 13, 14, 20, 25, 26, 31, and 36 under 35 U.S.C. § 103 as being unpatentable over Blue Pumpkin in view of the personal knowledge of the Examiner be withdrawn.

Claims 2-6, 8-12, 15-19, 21-24, 27-30, and 32-35 depend from and further limit independent Claims 1, 7, 13, 14, 20, 25, 26, 31, and 36 in a patentable sense, and, for this reason and the reasons set forth above, are also deemed to be in condition for allowance. Accordingly, it is respectfully requested that the rejection of dependent Claims 2-6, 8-12, 15-19, 21-24, 27-30, and 32-35 U.S.C. § 103 as being unpatentable over Blue Pumpkin in view of the personal knowledge of the Examiner be withdrawn, as well.

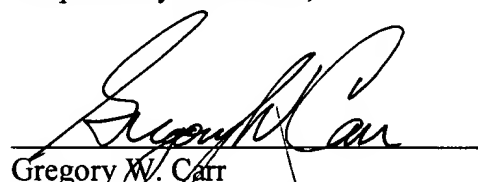
Applicants have now made an earnest attempt to place this application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request full allowance of Claims 1-36.

Enclosed is a check in the amount of one hundred ten and no/100 dollars (\$110.00), as payment for a one-month extension of time. Applicants do not believe any other fees are due in connection with the filing of this paper; however, in the event that any fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Should the Examiner have any questions or desire clarification of any sort, or deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

Date: 5/7/03



Gregory W. Carr
Registration No. 31,093
Attorney for Applicants

CARR LLP
Intellectual Property Law
670 Founders Square
900 Jackson Street
Dallas, Texas 75202
(214) 760-3030 (direct)
(214) 760-3000 (main)
(214) 760-3003 (fax)